

RECEIVED

October 19, 2010

Delaware Area Neighborhood Association

Post Office Box 9085

Albany, New York 12209

Postal Regulatory Commission

Office of the Chief Admin. Officer

OCT 21 2010

Encl. No. A 2011-1

Shoshana Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Re: Appeal of closure of Delaware Station, Albany, New York, 12209

Dear Ms. Grove:

Please accept this letter as a petition for review of the United States Postal Service's decision to close the Delaware Station post office, located at 332 Delaware Avenue, Albany, New York 12209.

Party seeking review

The Delaware Area Neighborhood Association (DANA) is seeking review of the closure. DANA is a New York not-for-profit corporation. DANA was formed for purposes that include improving the neighborhood, providing a channel of communication within the neighborhood and with governmental agencies and others, and assisting all people within the neighborhood boundaries in order to improve the neighborhood. I am the treasurer of DANA. On October 18, 2010, the board of directors of DANA voted to appeal the closure of the Delaware Station post office.

DANA is a person, under the definition in Title 39 of the Code of Federal Regulations (39 CFR) section 3001.5(f). DANA, as an organization, is a person served by the Delaware Station post office in that DANA's legal mailing address on file with the New York State Department of State is a post office box at Delaware Station (Post Office Box 9085). In addition, board members of DANA purchase stamps at Delaware Station for mailings of our newsletters and meeting notices, which are mailed to a list of approximately 1,300 addresses.

Neighborhood associations, in the City of Albany, are organizations of persons who live and/or work in a particular section of the city. The membership of a neighborhood association can include both homeowners and renters who live within the particular neighborhood, as well as business owners and employees of institutions located there. DANA's geographic area extends along Delaware Avenue and the nearby side streets, and the Delaware Station post office is centrally located within this geographic area. Many members of DANA, and many other residents of the neighborhood who are not members of DANA, make regular use of the Delaware

Station post office for purchasing stamps or money orders, sending packages, and sending certified mail or other specialized mailings, and some have post office boxes at Delaware Station as their personal or business addresses.

Respondent

The respondent in this appeal is the United States Postal Service (Postal Service).

Decision being appealed

The determination that DANA is appealing is stated in the September 22, 2010 letter to Postal Box Customer from Edward F. Phelan, Jr., District Manager, United States Postal Service. A copy of Mr. Phelan's letter is attached with this petition. The determination was also stated in a similar letter to Postal Customer from Mr. Phelan, dated September 22, 2010. A copy of this letter is attached as well. We are not certain if this is the "determination" to close the station or only a notice about the determination.

It is our understanding, based on 39 CFR section 3001.115(a), that DANA's arguments in support of its petition are to be submitted on PRC Form 61 or as a brief, after the Postal Regulatory Commission puts this appeal on its docket and sends to DANA a copy of Form 61. In order not to miss a possible deadline, however, an initial summary of our arguments is included in this letter.

Delaware Station is a post office

Delaware Station, despite being called a station by the Postal Service, is a post office as that term is ordinarily used, and it fits the description of a "post office" that the Postal Regulatory Commission has used in orders concerning appeals of post office closings (Docket No. A2006-1, *In re Observatory Finance Station*, Order Denying Motion to Dismiss and Remanding for Further Consideration (September 29, 2006); Docket No. A83-30, *In re Knob Fork, WV*, Comm'n Op. Remanding Determination for Further Consideration - 39 U.S.C. section 404(b)(5) (January 18, 1984)). Delaware Station is a retail facility where patrons may purchase postal services, and dispatch and receive mail.

Closure

The closure of the Delaware Station is not merely a rearrangement of retail postal facilities in the community, and is not part of an enhancement of services. As far as we know, the Postal Service is not proposing to open a similar station at another location near Delaware Station. We are being told to use other, existing, stations or branches in Albany or Delmar, to use the internet, or to use retail outlets "across the nation" (see, September 22, 2010 letter). The present situation differs from the rearrangements of retail facilities that the Postal Regulatory Commission has considered to be outside its jurisdiction under Title 39 of the United States Code (39 USC) section 404(d) (Docket No. A2007-1, *In re Ecorse Classified Branch, MI*, Order Dismissing Appeal on Jurisdictional Grounds (October 9, 2007); Docket No. A82-10, *In re*

Oceana Station, Virginia Beach, VA, Order No. 436 (June 25, 1982)). The closure that we are appealing is closure of a post office.

Summary of arguments

The Postal Service's determination to close Delaware Station was done without observance of procedure required by law, in a number of respects. The letter that was sent to box holders, and the similar September 22, 2010 letter that was sent to residents, are both attached with this petition. Both letters failed to notify the recipient that the determination to close Delaware Station could be appealed. This omission is contrary to the requirements in 39 CFR sections 241.3(f)(2)(ii) and 3001.110.

Both of the September 22, 2010 letters entirely failed to include findings with respect to certain considerations required to be made under 39 USC paragraph 404(d)(2) and (3), including the effect of the closing on employees of the postal service employed at Delaware Station and the economic savings to the Postal Service resulting from the closure. The September 22, 2010 letters failed to include findings about numerous effects of the closure on the community that were specifically pointed out by persons served by the station in their written comments and in comments at the public hearing. These omissions from the September 22, 2010 letters are contrary to the requirements of 39 USC 404(d)(3).

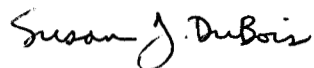
The Postal Service failed to make a copy of the completed record concerning the closure available for public inspection during normal business hours at the Delaware Station and failed to state, in its September 22, 2010 letters, that copies of all materials on which the determination was based would be available for public inspection at the Delaware Station. These omissions are contrary to 39 CFR 241.3(f)(2)(i) and 241.3(g)(1)(ii).

Subparagraph 404(d)(2)(v) of 39 USC requires that the Postal Service shall consider "such other factors as the Postal Service determines are necessary." Although this provision leaves identifying the other factors to the discretion of the Postal Service, the Postal Service abused that discretion by failing to consider at least two factors specific to Delaware Station, both of which relate to the major reconstruction project that took place in recent years along Delaware Avenue from Madison Avenue to McAlpin Street. The project was not merely a re-paving, but instead was a complete reconstruction of the street including removal of old trolley tracks, extensive storm sewer and drainage construction, and replacement of sidewalks. The project was a multi-year task. The project was paid for by approximately \$16 million from stimulus funding and other public sources, and a major focus of the project was maintaining Delaware Avenue as a walkable and bike-able street. The first factor related to this that the Postal Service's determination failed to make findings about, and that the Postal Service apparently failed to consider, is the extent to which Delaware Station's income and activity were depressed during the construction. The second factor is the inconsistency between spending large amounts of tax money on improving a main street and then removing the post office which is one of the key features of this "main street" neighborhood.

DANA intends to expand upon this summary in its response that will be submitted on

PRC Form 61 or as a brief, and also anticipates providing arguments concerning how closure of Delaware Station is not consistent with 39 USC section 101(b).

Yours truly,

A handwritten signature in cursive script that reads "Susan J. DuBois".

Susan J. DuBois
DANA Treasurer

518-465-9646

Enclosures: Two September 22, 2010 letters



September 22, 2010

Postal Box Customer
Albany NY 12209

This is to inform you of the U.S. Postal Service's decision to permanently close the Delaware Station located at 332 Delaware Avenue in Albany New York. We advised you on October 19, 2009 of our intent to conduct a feasibility study and the final decision has been made. This office will be open and operational until December 31, 2010.

Because of the drastic decline in mail volume, the Postal Service is in a fiscal crisis and must take action to reduce the size of its retail and delivery network. By consolidating, streamlining and adjusting our operations, the Postal Service becomes a more efficient and effective organization.

I want to assure you that the community's input was received and carefully considered before making this decision. Ultimately, based on all of the factors involved, the decision was made to proceed with the closure.

Local mail delivery will not be affected by this move. Full retail services will still be available in neighboring offices and our customers will continue to receive the same excellent service they always have.

If you are currently a Post Office Box holder at the Delaware Station, you will be able to continue to keep your current PO Box number and zip code at the Albany Main Post Office, 45 Hudson Ave in Albany.

However, a trip to the Post Office can be skipped altogether and you can purchase stamps and shipping labels online using the Postal Service's website, usps.com. You can also request free package pickup at usps.com. The Postal Service will pick up packages during regular mail delivery the next business day – and, unlike other shipping companies, there is no fee for this service. Postage stamps can also be purchased at 1.800.STAMP 24, thousands of banking ATMs and in more than 55,000 retail outlets across the nation.

If you have questions, or need additional information, please contact David Desrosiers, Manager Consumer Affairs at 518-452-2406.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed F. Phelan Jr.", written over a horizontal line.

Edward F. Phelan Jr.
District Manager

DISTRICT MANAGER
ALBANY DISTRICT



September 22, 2010

Postal Customer
Albany NY 12209

This is to inform you of the U.S. Postal Service's decision to close the Delaware Station located at 332 Delaware Avenue in Albany NY. We advised you on October 19, 2009 of our intent to conduct a feasibility study and the final decision has been made. This office will be open and operational until December 31, 2010.

Because of the drastic decline in mail volume, the Postal Service is in a fiscal crisis and must take action to reduce the size of its retail and delivery network. By consolidating, streamlining and adjusting our operations, the Postal Service becomes a more efficient and effective organization.

I want to assure you that the community's input was received and carefully considered before making this decision. Ultimately, based on all of the factors involved, the decision was made to proceed with the closure.

Local mail delivery will not be affected by this move. Full retail services will still be available in neighboring offices and our customers will continue to receive the same excellent service they always have.

The Post Offices, stations or branches nearest to your residence are located at:

- Academy Station, 563 New Scotland Ave., Albany NY 12208
- Delmar Post Office, 357 Delaware Ave., Delmar NY 12054
- Albany Main Post Office, 45 Hudson Ave., Albany NY 12207

A trip to the Post Office can be skipped altogether and you can purchase stamps and shipping labels online using the Postal Service's website, usps.com. You can also request free package pickup at usps.com. The Postal Service will pick up packages during regular mail delivery the next business day – and, unlike other shipping companies, there is no fee for this service. Postage stamps can also be purchased at 1-800-STAMP-24, thousands of banking ATMs and in more than 55,000 retail outlets across the nation.

If you have questions, or need additional information, please contact David H. Desrosiers, Manager, Consumer Affairs at (518) 452-2406 or david.h.desrosiers@usps.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed F. Phelan, Jr.", written over the printed name.

Edward F. Phelan, Jr.
District Manager
Albany District

October 19, 2010
Delaware Area Neighborhood Association
Post Office Box 9085
Albany, New York 12209

Shoshana Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Re: Application for Suspension of Closure
Delaware Station, Albany, New York

Dear Ms. Grove:

The Delaware Area Neighborhood Association (DANA) is submitting a petition for review of the United States Postal Service's decision to close the Delaware Station post office, located at 332 Delaware Avenue, Albany, New York 12209. The post office is currently scheduled to be open until December 31, 2010 and to close after that date.

In connection with the petition, we are also submitting the present application for suspension of the station's closure pending the outcome of the appeal, as allowed under Title 39 of the Code of Federal Regulations (39 CFR) section 3001.114.

There are two reasons for this application. We want to prevent a situation in which the Delaware Station post office's closure has been put on an irreversible course prior to the Postal Regulatory Commission's decision whether to remand the closure to the United States Postal Service (Postal Service) for further consideration. We also want to avoid a situation in which some current box holders at the station end up changing their addresses unnecessarily, if the Postal Service eventually decides to keep the station open following further consideration.

As far as we know, the space in which Delaware Station is located is rented by the Postal Service from a private landlord and the Postal Service has a lease for the space. We do not know the end date of the current lease, nor what the Postal Service's intentions might be with respect to terminating the lease. We also do not know what the Postal Service's intentions are with respect to when it will move its equipment and mailboxes out of their present Delaware Station location. It appears possible that the Postal Service might want to save money by being out of 332 Delaware Avenue as soon as possible after December 31, 2010.

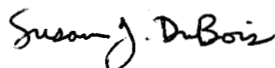
The appeal process could take about four months, with a decision being made by the Postal Regulatory Commission in the second half of February, 2011. This projection

is based on the 120 day time period from receipt of the appeal that is specified in 39 United States Code (39 USC) section 404(d)(5). By that time, the closure might be irreversible, even if the Postal Regulatory Commission remanded the closure to the Postal Service and even if the Postal Service's further consideration would have led to a decision to keep the station open. Short of being irreversible, the fact of the station being closed could skew the outcome of any further evaluation the Postal Service might conduct.

With respect to the second reason, the September 22, 2010 letter from Edward F. Phelan, Jr. to Postal Box Customer stated that box holders at Delaware Station would be able to continue to keep their current post office box number and zip code at the Albany Main Post Office located at 45 Hudson Avenue in Albany. Some box holders, including some business owners who use a post office box at Delaware Station as their business address, might find the Hudson Avenue location inconvenient and decide to make other arrangements for a new mailing address. These box holders should not need to make these arrangements and change their addresses until it is definitely known that Delaware Station will close, either following a denial of the appeal or following further consideration by the Postal Service.

A notarized statement concerning facts related to this application is enclosed. It is possible that DANA might submit one or more additional notarized statements, from other individuals, in the next few days.

Yours truly,



Susan J. DuBois
DANA Treasurer

518-465-9646

Encl.

Statement of Susan J. DuBois

This statement is being submitted in support of suspending the closure of the Delaware Station post office (332 Delaware Avenue, Albany, New York 12209) while the appeal of this closure is pending before the Postal Regulatory Commission.

I am a person who is served by the Delaware Station post office. I use it as an individual, for purchasing stamps and for mailing things such as packages and letters sent by certified mail, return receipt requested.

I also use the Delaware Station post office in my capacity as treasurer of the Delaware Area Neighborhood Association (DANA), a not-for-profit corporation. DANA's mailing address in the records of the New York State Department of State is Post Office Box 9085, Albany, New York, 12209, which is a post office box located at the Delaware Station post office. Much of the mail that is sent to DANA is sent to the home address of a board member, but DANA's address as a not-for-profit corporation is the post office box address. I am one of the DANA board members who has a key to the box, and I try to check the box about once a week or more frequently if there is a need to do so.

DANA was notified about the closure of the station by letter dated September 22, 2010, signed by Edward F. Phelan, Jr., District Manager, United States Postal Service (Postal Service) and addressed to Postal Box Customer. The letter stated that the Delaware Station post office "will be open and operational until December 31, 2010."

Based upon talking with another neighborhood association board member and with an employee at the Delaware Station post office, it is my understanding that the Postal Service rents the storefront at 332 Delaware Avenue in which the Delaware Station post office is located. I do not know what the Postal Service's plans are for ending the lease when Delaware Station closes. I also do not know when the Postal Service might remove its equipment from the storefront in which Delaware Station is currently located.

Mr. Phelan's letter to postal box customers stated that current box holders at Delaware Station will be able to keep their current box numbers and zip code at the Albany Main Post Office, 45 Hudson Avenue, Albany, New York.

If the Delaware Station post office closes, I will probably move the DANA post office box to a different station rather than having it at the main post office on Hudson Avenue, due to the time it would take for me to check the box at the main post office as opposed to another location. Changing DANA's mailing address with the New York State Department of State will involve filing a form with that agency and paying a \$20 state fee. I do not know how many of the Delaware Station box holders will continue to use boxes that are transferred to Hudson Avenue as opposed to looking for boxes at other stations or making other arrangements to receive mail.

Susan J. DuBois 10/18/10
(Signature) (Date)

NOELLE M. KINSCH
Notary Public, State of New York
No. 02KI5085548
Qualified in Albany County
Commission Expires Sept. 29, 20 13

Attached - - Copies of three petitions already submitted concerning closure of Delaware
Station post office, Albany, New York 12209



CITY OF ALBANY
COMMON COUNCIL

Council Member 1st Ward

Dominick Calsolaro
35 Clare Avenue
Albany, New York 12202

TELEPHONE: 518-859-5219

FAX: 518 434-5081

DCALSOLARO@NYCAP.RR.COM

WWW.CALSOLARO.NET

CHAIR

HOUSING AND COMMUNITY
DEVELOPMENT

MEMBER

FINANCE, TAXATION AND
ASSESSMENT

GENERAL SERVICES, HEALTH
AND ENVIRONMENT

October 17, 2010

Shoshanna Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW
Suite 200
Washington, D.C. 20268-0001

Re: Appeal of closure of Delaware Station, Albany, New York, 12209

Dear Ms. Grove:

Please accept this letter as a petition for review of the United States Postal Service's decision to close the Delaware Station post office, located at 332 Delaware Avenue, Albany, New York 12209.

This appeal is being made by Dominick Calsolaro, Common Council Member First Ward, City of Albany, New York. I, and my constituents, use the Delaware Station post office. We use the Delaware Station post office, the most convenient and easily accessible post office facility for the residents of the First Ward, for: buying stamps, sending packages or certified mail, and having P.O. boxes because many residents are fearful of having their mail left unattended during the day.

The respondent in this appeal is the United States Postal Service.

The determination that I am appealing is stated in two September 22, 2010 letters from Edward F. Phelan, Jr., District Manager, United States Postal Service, copies of which are attached with this petition.

There are two reasons why I believe the Postal Service's decision did not follow required procedures: First, the above-referenced letters of September 22, 2010 failed to notify the recipients about the opportunity to appeal the determination to close the station.

Second: The decision to close Delaware Station was arbitrary and failed to take into consideration the hardship closing the Station will have on the residents in the surrounding neighborhoods. To wit: The Delaware Station post office is the closest post office to most residents in the 12202 and 12209 zip code areas. The post offices that my constituents are being sent to, according to the September 22, 2010 letter, are miles away from their homes and businesses. This hardship will be especially trying on the residents of the First Ward. According to the U.S. Census Bureau, American Fact Finder, 40% of the households in the 12202 zip code area do not have access to a vehicle. An additional 44% of households have only one vehicle available for their use. Furthermore, almost 30% of residents rely on public transportation or walking to get to work. Add in a family poverty rate of 33% (17% of seniors are living below poverty level) and the fact that it costs \$4.00 for a one day pass on public transportation, one can clearly see that closing the Delaware Station post office will have a deleterious affect on the residents of the First Ward. To ask a person without a vehicle and living below the poverty level to pay \$4.00 to go to a post office and back, a necessity in today's world, is unconscionable.

Thank you for your time and consideration in this matter of closing the Delaware Station post office, Albany, New York 12209.

Sincerely,

Dominick Calsolaro
Common Council Member - First Ward

cc: U. S. Senator Charles Schumer
U. S. Senator Kirsten Gillibrand
Member of Congress Paul Tonk
Delaware Area Neighborhood Association
Second Avenue Neighborhood Association
Lincoln Park Neighborhood Association

October 18, 2010
496 Delaware Ave
Albany, NY 12209

Shoshanna Groove, Sec. of the Commission
Postal Regulatory Commission
901 New York Ave. NW
Washington DC 20268-0001

Re: Appeal of closure of Delaware Station, Albany NY 12209

Dear Ms. Groove:

Please accept this letter as a petition for review of the U. S. Postal Service's decision to close the Delaware Station post office, located at 332 Delaware Avenue, Albany, NY 12209

This appeal is being made by Eleanor Laing. I use the Delaware Station post office for buying stamps, sending packages to my children in New Mexico, and certified mail.

The respondent in this appeal is the United States Postal Service.

The determination that I am appealing is stated in the Sept. 22, 2010 letter from Edward F. Phelan Jr. District Mgr, U. S. Postal Service, a copy of which is attached to this petition

As an 80 year old, senior citizen, without a car, this closure will be a hardship, as it will for many seniors living in this area. My community mailings of approx. 400 will have to be discontinued, as well as some of my personal correspondence.

Yours Truly,
Eleanor R. Laing

Enclosure: 1

CATHERINE M. FAHEY
Council Member, 7th Ward



32 Lawnridge Avenue
Albany, NY 12208
(518) 482-6159
cathyfahey7@yahoo.com

October 18, 2010

Shoshanna Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Re: Appeal of closure of Delaware Station, Albany, NY

Dear Ms. Grove:

Please accept this letter as a petition for review of the United States Postal Service's decision to close the Delaware Station post office, located at 332 Delaware Avenue, Albany, New York 12209.

I am appealing the closure both on behalf of residents who are my constituents and live in the neighborhoods in Albany's 7th Ward and served by the Delaware Station post office, and myself as someone who frequently uses the postal services of the Delaware Station to purchase stamps, mail packages, send registered or certified mail, send large mailings, and rent a post office box. My constituents use the Delaware Station in all the same ways as me and in additional ways that include purchase of domestic and international money orders and wiring funds internationally.

The respondent in this appeal is the United States Postal Service.

The determination that I am appealing is stated in the September 22, 2010 letter(s) from Edward F. Phelan, Jr., District Manager, United States Postal Service, copies of which are enclosed with this petition.

Delaware Station is called a station by the Postal Service, yet it serves as a post office in the ordinary sense of the term. The Postal Regulatory Commission's description of the term "post office" in its orders concerning appeals of post office closings as a retail facility where patrons may purchase postal services, and dispatch and receive mail, accurately describes the Delaware Station. My petition to appeal the determination to close the Delaware Station post office is based in view of this.

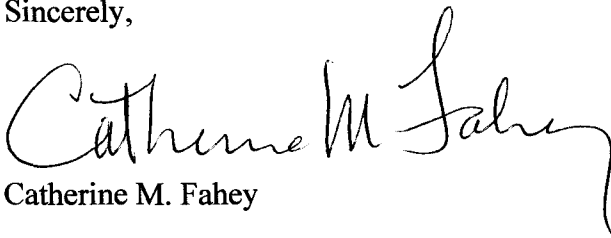
The Postal Service failed to follow the required procedure in notifying customers of the decision to close the Delaware Station post office in significant ways. The September 22, 2010 letter(s) did not inform customers of the opportunity to appeal the determination to close the station. Also, the letter did not adequately address customers' many concerns regarding the impacts closure of the Delaware Station would have including the following:

1. Customers will have difficulty getting to post offices in other locations due to the lack of a vehicle or because of limited access to mass transit;
2. Customers, especially those of limited socio-economic means, cannot afford the additional cost and time required to take public transportation to post offices in other locations. Bus routes in Albany have been consolidated and bus transfers have been eliminated making transportation inconvenient, time consuming and costly.
3. Customers who live in multi-unit dwellings and rent a post office box because of an increased risk of mail theft from their home mail box will have greater difficulty accessing their post office box;
4. Customers who operate home-based businesses that rely on regular usage of postal services will incur additional costs due to increases in time and money to use a post office that is further away;
5. The letter referred customers to online postal services, however, many Delaware Station customers are not computer literate and do not have access to computers.

The decision to close the Delaware Station post office makes no sense in light of recent federal expenditures in the millions of dollars through the American Recovery and Reinvestment Act to completely reconstruct Delaware Avenue and create a more vibrant, walkable urban neighborhood that is resulting in an increase in small businesses and homeownership. The proposed closure of the Delaware Station post office and removal of its important services is antithetical to governments' efforts to revitalize the area.

Thank you in advance for your assistance with this petition to appeal the Postal Service's decision to close the Delaware Station post office. I look forward to your response.

Sincerely,

A handwritten signature in black ink, reading "Catherine M. Fahey". The signature is fluid and cursive, with the first name "Catherine" being the most prominent part.

Catherine M. Fahey

Enclosures (Two September 22, 2010 letters)

cc: Jordan M. Small, USPS Vice President, Area Operations, Northeast Area
Ed Phelan, USPS